

Senate Bill No. 1085

CHAPTER 213

An act to amend Section 53395.1 of, and to repeal and add Section 53395.8 of, the Government Code, relating to infrastructure financing districts.

[Approved by Governor September 6, 2005. Filed with
Secretary of State September 6, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1085, Migden. Infrastructure financing districts: public trust lands.

Existing law authorizes the formation by local legislative bodies of infrastructure financing districts, which may include specified types of areas, to incur debt, as defined, or provide for tax increment allocation, to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of specified types of real or tangible property, including specified types of facilities, pursuant to an infrastructure financing plan adopted pursuant to specified procedures.

This bill would include a public agency that owns all the land to be included in a proposed district within the definition of "landowner" for purposes of these provisions.

This bill would, with respect to the City and County of San Francisco, expand the definition of "debt" for these purposes, include environmental remediation and certain types of repairs within those projects that may be financed, include various facilities within those qualifying for financing, and make various conforming changes. It would, with respect to the City and County of San Francisco, include tidelands and submerged lands subject to the public trust for commerce, navigation, and fisheries, and the applicable statutory trust grant or grants, among the areas that may be included in an infrastructure financing district and make related changes, would make various changes in the procedures for formation of the district and adoption of an infrastructure financing plan if all the land in the district would be publicly owned, and would authorize the amendment of an infrastructure financing plan to extend time limitations for receipt of property tax increment, subject to specified conditions.

The people of the State of California do enact as follows:

SECTION 1. Section 53395.1 of the Government Code is amended to read:

53395.1. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) “Affected taxing entity” means any governmental taxing agency which levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district.

(b) “City” means a city, a county, or a city and county.

(c) “Debt” means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) “Designated official” means the city engineer or other appropriate official designated pursuant to Section 53395.13.

(e) (1) “District” means an infrastructure financing district.

(2) An infrastructure financing district is a “district” within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) “Infrastructure financing district” means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing public facilities.

(g) “Landowner” or “owner of land” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

(h) “Legislative body” means the city council or board of supervisors.

SEC. 2. Section 53395.8 of the Government Code is repealed.

SEC. 3. Section 53395.8 is added to the Government Code, to read:

53395.8. (a) This section applies only to the City and County of San Francisco. For the purposes of this chapter, the City and County of San Francisco is a city.

(b) In addition to the findings and declarations in Section 53395, the Legislature further finds and declares that consolidating in a single public agency the responsibility to administer waterfront lands in the City and County of San Francisco that are subject to the public trust and the ability to capture property tax increment revenues to finance needed public infrastructure improvements in those areas will further the objectives of the public trust and enjoyment of those trust lands by the people of the state.

(c) Notwithstanding subdivision (c) of Section 53395.1, for the purposes of this section, “debt” includes commercial paper and variable rate demand notes.

(d) In addition to the purposes provided in subdivision (a) of Section 53395.3, a district subject to this section may finance the environmental remediation of any real or tangible property that the district may finance pursuant to Section 53395.3. The district may also finance planning and

design work that is directly related to the improvement, seismic retrofit, or environmental mediation of that property. The district may not finance routine nonstructural repair work.

(e) In addition to the public capital facilities of communitywide significance that a district may finance pursuant to subdivision (b) of Section 53395.3, a district subject to this section may finance all of the following:

(1) Seismic and life-safety improvements to existing buildings and other structures.

(2) Rehabilitation, restoration, and preservation of structures, buildings, or other facilities having special historical, architectural, or aesthetic interest or value and that are either eligible for listing on the National Register of Historic Places, both individually or because of their location within an eligible registered historic district, or are locally designated landmarks.

(3) Structural repairs and improvements to piers, seawalls, and wharves.

(4) Remediation of hazardous materials.

(5) Storm water management facilities, other utility infrastructure, or public access improvements.

(f) Notwithstanding Section 53395.4, a district subject to this section may include tidelands and submerged lands, including filled lands, subject to the public trust for commerce, navigation, and fisheries, and the applicable statutory trust grant or grants. Where a district includes tidelands and submerged lands, whether filled or unfilled, and finances facilities located on these tidelands and submerged lands, these facilities shall serve and promote uses and purposes consistent with the public trust and applicable statutory trust grants. These facilities shall be public trust assets subject to the administration and control of the legislative trust grantee of the public trust lands on which they are constructed. However, if these facilities are among the public capital facilities listed in paragraphs (1) to (4), inclusive, of subdivision (b) of Section 53395.3 or paragraph (5) of subdivision (e) of this section and are not owned by the public agency administering the public trust lands, but are owned and operated by another entity pursuant to a license from or an agreement with the public agency administering the public trust lands, then these facilities are not required to become public trust assets. The district shall maintain accounting procedures in accordance, and otherwise comply, with Section 6306 of the Public Resources Code.

(g) Notwithstanding Section 53395.5, nothing in this chapter shall prohibit the formation of a district on urban waterfront property, nor the financing of needed public infrastructure projects located on public trust lands, pursuant to this section.

(h) Notwithstanding subdivision (c) of Section 53395.14, infrastructure improvements that increase public access to, or use or enjoyment of, public trust lands pursuant to this section shall be deemed to satisfy the requirements of that subdivision.

(i) Notwithstanding Section 53395.20 or any other provision of law, if all of the land in a district subject to this section would be publicly owned, no election shall be required to form the district, and the legislative body may, by ordinance, adopt the infrastructure financing plan and create the district, upon recommendation of the public agency with jurisdiction over the land.

(j) (1) Notwithstanding any other provision of this chapter, the legislative body may amend an infrastructure financing plan subject to this section to extend the time limitations for receipt of property tax increment beyond the 30-year period from adoption of the ordinance for the district for a period not to exceed 10 years to pay bonded indebtedness, if the district does all of the following:

(A) Includes an amendment, if necessary, to increase the total number of dollars to be allocated to the district.

(B) Prepares an analysis of the projected fiscal impact on each affected taxing entity.

(C) Sets a time and date for a public hearing on the matter.

(2) The amendment to the infrastructure financing plan shall be mailed by the clerk to each affected taxing entity for its review. Each affected taxing entity shall review and consent to or disapprove the amended infrastructure financing plan within 60 days of the receipt thereof.

(k) (1) The legislative body shall hold a public hearing regarding the amendment to the infrastructure financing plan within 60 days after each affected taxing entity has approved the extension.

(2) The public hearing, and notice thereof, shall be conducted in accordance with Sections 53395.17 and 53395.18. At the conclusion of the hearing, the legislative body may adopt an ordinance adopting the infrastructure financing plan, as modified, or it may abandon the proceedings.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City and County of San Francisco. The facts constituting the special circumstances are:

The Port Authority of the City and County of San Francisco administers tidelands along its waterfront where there are neither private landowners nor registered voters. The Port Authority of the City and County of San Francisco wants to establish one or more infrastructure financing districts to finance improvements to those waterfront properties. However, the current law that governs the formation of infrastructure financing districts assumes the presence of private landowners and registered voters. In order to adapt the provisions of Chapter 2.8 (commencing with Section 53395) of Part 1 of Division 2 of Title 5 of the Government Code, relating to infrastructure financing districts, to these unique circumstances, this special act is necessary.